

TO PROVIDE FOR THE FURNISHING OF STATUES BY THE  
DISTRICT OF COLUMBIA FOR DISPLAY IN STATUARY  
HALL IN THE UNITED STATES CAPITOL

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JULY 22, 2010.—Referred to the House Calendar and ordered to be printed

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Mr. BRADY of Pennsylvania, from the Committee on House  
Administration, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 5493]

[Including cost estimate of the Congressional Budget Office]

The Committee on House Administration, to whom was referred the bill (H.R. 5493) to provide for the furnishing of statues by the District of Columbia for display in Statuary Hall in the United States Capitol, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE LEGISLATION

H.R. 5493 is a bill to enhance the artistic display of sculpture in the United States Capitol by providing the District of Columbia with the right to request that no more than two statues of prominent, deceased persons associated with that jurisdiction be displayed in the National Statuary Hall Collection. The Collection was created by statute in 1864 (2 U.S.C. 2081) to honor distinguished persons chosen by the states, for display in what is now called Statuary Hall; in later years the statues were also displayed outside the overcrowded Hall, and, more recently, in the Capitol Visitors Center. In 2005, New Mexico submitted the 100th statue to complete the Collection, with two from each state.

Choices of potential historical personages to receive the honor would be made by the District of Columbia government and pre-

sent to the Joint Committee of Congress on the Library. The District would bear the costs of making the statues and transporting them into the Capitol for display. H.R. 5493 would also provide to the District the ability to replace its statues, at a future time, as currently permitted by Federal law for existing statues in the Collection.

#### BACKGROUND AND NEED FOR H.R. 5493

Upon completion of the new House wing of the Capitol in 1857, the House of Representatives looked for a use for its old chamber, located between the Rotunda and the House wing. The idea for a statuary hall was proposed in April of 1864, during President Lincoln's administration, and National Statuary Hall was created by law on July 2, 1864. Each state was invited to send two statues of worthy citizens of their choosing to the newly created National Statuary Hall.

By 1933, National Statuary Hall contained 65 statues and began to suffer from overcrowding and safety issues involving excess weight, so Congress passed House Concurrent Resolution 47, to allow for the relocation of statues within the Capitol by the Joint Committee on the Library. In the 106th Congress, the efficacy of a House-numbered concurrent resolution beyond the Congress in which it had originated was discussed. As a result, the JCL's authority was codified in legislation in 2000 (Public Law 106-554 [40 U.S.C. 187a]), the Consolidated Appropriations Act of 2001, which also gave the states the ability to replace their previous selections.

The District of Columbia, by virtue of not being a state, was not included in the original 1864 statute. The Committee agrees with proponents of H.R. 5493 that the time has come for the contributions of residents of the District to be recognized in the same manner as those of the states.

The need for a federal capitol that is not within a state was documented in *Federalist No. 43 of The Federalist Papers* and was codified in Article 1 Section 8 of the U.S. Constitution. James Madison, writing in *Federalist No. 43*, believed the Federal government, and not a state, should exercise total control over the new federal capitol, which led to the District of Columbia's unique designation.

The area which currently comprises the District, irrespective of its changing governmental structure over time, has been part of the American republic since the formation of the United States. While not a state, the District of Columbia shares more in common with states than it does with American territories, which were acquired at various times through agreements or conquest. District of Columbia residents are granted the same rights and responsibilities as citizens of the 50 states under the Constitution, except the ability to have voting representatives in the Congress; are treated the same for tax purposes; and vote, pursuant to the 23rd Amendment to the Constitution, for three electors to cast votes for president and vice president.

This legislation is about art, not politics. It has nothing to do with the issue of D.C. voting representation in Congress and its enactment would not bolster any claims the District might have for the enactment of legislation on that subject, which is not within the jurisdiction of the Committee on House Administration. The land now comprising the District has had a history as long as the

United States has existed, originally as part of the state of Maryland, and has had many famous residents of national and international renown.

The District has indicated that, if the bill is enacted, that it would expect to propose the names of Pierre L'Enfant and Frederick Douglass for inclusion in the Collection, and has already commissioned statues which are currently on display in a local government office building. The Committee takes no position on the identity of the persons who might be chosen by the District.

The Committee intends that the Joint Committee on the Library, pursuant to its statutory authority, would determine appropriate locations within the Capitol complex for display of statues presented by the District of Columbia for inclusion in the National Statuary Hall Collection.

#### COMMITTEE CONSIDERATION

H.R. 5493 was introduced by Delegate Eleanor Holmes Norton of the District of Columbia on June 9, 2010. The Committee on House Administration conducted a markup of H.R. 5493 on July 14th, 2010. The Committee considered and rejected, by voice vote, an amendment in the nature of a substitute offered by Rep. Lungren of California which would have limited the District to a single statue in the Collection, and added to the Collection a single statue each from the following territories of the United States: American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

The Committee then ordered the bill reported favorably, by voice vote, without amendment, with a quorum being present.

#### ANALYSIS OF THE BILL (AS REPORTED)

Section 1. Section 1 authorizes the President to invite the District of Columbia to provide and furnish no more than two statues celebrating the achievements of deceased citizens that the District of Columbia deems worthy of the honor. The subjects of the statues must be deceased for no fewer than 10 years.

Section 2. The District of Columbia may request the Joint on the Library to approve the replacement of a statue that was furnished pursuant to Section 1. This request will be considered by the Joint Committee on the Library if the request has been approved by the Council and Mayor of the District of Columbia. This request cannot be made until the statue that is to be replaced has been displayed for at least 10 years or unless the Joint Committee on the Library waives this requirement for cause. If the request is approved by the Joint Committee on the Library, the Architect of the Capitol will enter into an agreement with the District of Columbia to carry out the replacement procedure pursuant to any conditions the Joint Committee may require. The new statue is subject to the same conditions set forth in Section 1 and the District of Columbia shall bear the entire cost of the replacement process. Upon replacement and subject to the approval of the Joint Committee on the Library, ownership of the statue being replaced will be transferred to the District of Columbia. The replaced statue is prohibited from being displayed again in the U.S. Capitol unless specifically authorized by Federal law. The Architect of the Capitol, upon JCL approval,

is authorized to direct and provide for the location and relocation of any statues.

MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

*Constitutional authority*

Clause 3(d)(1) of House Rule XIII requires each committee report on a public bill or joint resolution to include a statement citing the specific constitutional power(s) granted to the Congress on which the Committee relies for enactment of the measure under consideration.

The Committee cites the legislative power broadly granted to Congress under Article I. Pursuant to House Rule X, clause 1(j)(4), the jurisdiction of the Committee on House Administration includes statuary and pictures, and acceptance or purchase of works of art for the U.S. Capitol.

*Committee votes*

Clause 3(b) of House Rule XIII requires the results of each recorded vote on an amendment or motion to report, together with the names of those voting for and against, to be printed in the committee report. No recorded votes were taken during the Committee's consideration of H.R. 5493.

*Congressional Budget Office estimate*

Clause 3(c)(3) of House Rule XIII requires the report of a committee on a measure which has been approved by the committee to include a cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 403 of the CBA, if timely submitted. The Director submitted the following estimate:

JULY 20, 2010.

Hon. ROBERT A. BRADY,  
*Chairman, Committee on House Administration,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5493, a bill to provide for the furnishing of statues by the District of Columbia for display in Statuary Hall in the United States Capitol.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Alan Eder and Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*H.R. 5493—A bill to provide for the furnishing of statues by the District of Columbia for display in Statuary Hall in the United States Capitol*

H.R. 5493 would authorize the President to invite the District of Columbia to place up to two statues of deceased citizens known for distinguished civic or military service in Statuary Hall in the United States Capitol. The bill also would require the District of Columbia to cover the costs of providing new statues. CBO estimates that implementing H.R. 5493 would have no significant im-

impact on the federal budget. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures would not apply.

H.R. 5493 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contacts for this estimate are Alan Eder and Matthew Pickford. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### *Federal mandates*

Section 423 of the CBA requires a committee report on any public bill or joint resolution that includes a federal mandate to include specific information about such mandates. The Committee states that H.R. 5493 includes no federal mandates.

#### *Preemption clarification*

Section 423 of the CBA requires a committee report on any public bill or joint resolution to include a committee statement on the extent to which the measure is intended to preempt state or local law. The Committee states that H.R. 5493 is not intended to preempt any state or local law.

#### *Oversight findings*

Clause 3(c)(1) of rule XIII requires each committee report to contain oversight findings and recommendations required pursuant to clause 2(b)(1) of House Rule X. Membership of the Joint Committee on the Library, which has jurisdiction over the placement of statues in the Collection, consists predominantly of members of the Committee on House Administration. The Committee has oversight responsibility under clause 4(d)(1)(B) of rule X for the management of services provided to the House by the Architect of the Capitol, except those that lie within jurisdiction of the Committee on Transportation and Infrastructure. The AoC would supervise physical placement, and replacement, of statues in the National Statuary Hall Collection. The Committee finds that the Architect and the JCL can find appropriate locations within the U.S. Capitol for inclusion of additional statues in the National Statuary Hall Collection.

#### *Statement of general performance goals and objectives*

Clause 3(c)(4) of House Rule XIII requires committee reports to include a statement of general performance goals and objectives. The Committee finds that the addition of two statues from the District of Columbia to the Collection would add to its artistic merit and increase its historical interest to the American people.

#### *Congressional "earmarks"*

Clause 9 of House Rule XXI requires committee reports on public bills and resolutions to contain an identification of congressional "earmarks," limited tax benefits, limited tariff benefits, and the names of requesting Members. The bill as reported contains no such items.

*Congressional Accountability Act applicability*

Section 102(b)(3) of the Congressional Accountability Act of 1995 (Pub. L. 104–1) (CAA) requires each report on a public bill or joint resolution relating to terms and conditions of employment or access to public services or accommodations to describe the manner in which the legislation applies to the Legislative Branch. The bill as reported contains no such items.

*Changes in existing law made by the bill, as reported*

H.R. 5493 would not make any changes in existing law.

## MINORITY VIEWS

The statues displayed throughout the Capitol complex add both history and beauty to the experience of visiting the United States Capitol. We do not object to giving the District of Columbia and the territories the opportunity to add to that experience by displaying a statue of a person of historical significance. However, there are unfortunately those who will distort the meaning of any legislation affecting only the District of Columbia to manufacture an argument that it shows support for giving the District of Columbia rights and status that are specifically not provided to it by the Constitution. We fear that the way the committee has treated this issue today will further lend support to those erroneous arguments.

The legislation considered today authorized the District of Columbia to place two statues for display in Statuary Hall. This is the same number of statues that each state is allotted under the current rules. Additionally, this committee also passed legislation that gave the territories the right to display statues, yet each territory was only given authorization for one statue. H.R. 5493 seeks to give the District of Columbia the imprimatur of statehood by giving it two statues, and in the next breath, H.R. 5711 further distinguished the District of Columbia by only giving the territories one statue instead of two. While we do not wish to reargue other issues relating to the District of Columbia in this context, clearly the District of Columbia is not a state under the plain reading of the United States Constitution and it should not be treated as such.

Ranking Member Lungren offered an amendment to make clear that this bill was designed to include the District of Columbia and the territories in the Capitol's statuary collection rather than as an exercise in political gamesmanship to advance an unrelated agenda relating to the District of Columbia. The amendment provided for both the territories and the District of Columbia to display one statue each. This change would have allowed members to support this bill without fear that their vote would be used to advance another agenda. However this amendment was defeated in committee.

While we do not object to—and in fact support—the District of Columbia and the territories having the opportunity to display a statue, we do object to using this process as a political pawn in the game to grant the District of Columbia de facto statehood without going through the proper and necessary process of amending the Constitution.

DANIEL E. LUNGREN.  
KEVIN MCCARTHY.  
GREGG HARPER.

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